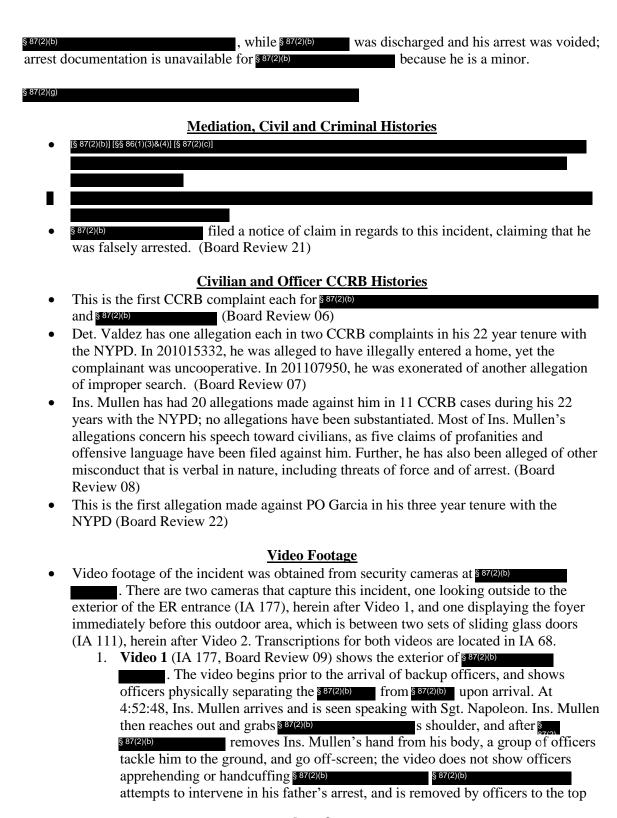
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	✓ Force	✓ Discourt.	☐ U.S.
Rachel Ellman		Squad #13	201604641	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:		EO SOL
Saturday, 05/28/2016 4:00 PM		§ 87(2)(b) Precinct stationhouse	and the 44th	44	11/28/2017	11/28/2017
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Ti	me Received at CCR	RB
Tue, 05/31/2016 10:39 AM		CCRB	Phone	Tue, 05	/31/2016 10:39 AM	
Complainant/Victim	Type	Home Addre	ess			
Witness(es)		Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. Officers						
2. INS Brian Mullen	00000	906885	044 PCT			
3. POM Brian Garcia	30586	954846	044 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. DT3 Juan Valdez	01742	912098	MP SQD			
2. SGT Michael Cohn	02237	932476	044 PCT			
3. SGT Johnny Napoleon	03120	921622	PBBX			
4. POM Michael Jenkins	08673	952892	044 PCT			
Officer(s)	Allegatio	on		In	vestigator Recon	nmendation
A.INS Brian Mullen	Abuse: A instructed	at § 87(2)(b) d Det. Juan Valdez to ar	, Ins. Brain Mulle rest ^{§ 87(2)(b)}	n		
B. Officers	Force: A force aga	t ^{§ 87(2)(b)} .inst ^{§ 87(2)(b)}	, officers used phy	sical		
C. Officers	Abuse: A § 87(2)(b)	1 § 87(2)(b)	, officers strip-sea	arched		
D. Officers	Force: A	s head against a vehicl	, officers hit § 87(2)(b	b)		
E. Officers	Discourte discourte	esy: At ^{§ 87(2)(b)} cously to ^{§ 87(2)(b)}	, officers spo and § 87(2)(b)	oke		
F.POM Brian Garcia		at the 44th Precinct station btain medical treatment		Garcia -		

Case Summary

filed this complaint on May 31, 201	6 via phone. § 87(2)(b)	also filed a
complaint via phone on May 31, 2016, § 87(2)(9)		
§ 87(2)(b)		
security staff were unable to keep for backup. Shortly thereafter, Sgt. Johnny Napoleon a arrived at the scene and worked to physically separate attempted to verbally alert officers of \$87(2)(5) wh Amidst this conversation, Ins. Brian Mullen, at the tim approached the scene. Ins. Mullen reached his hand or	the 229 Missing Persons Squared the \$87(2)(b) to exit the hor, with \$87(2)(b) family, including the groups separate, so Det. and other officers from the 44th groups. \$87(2)(b) o was directing gang signs at the officers from the 44th Precinct, arrived the groups. \$87(2)(b) serson. Immediately, Ins. Mul	rgency room. uad and at the ospital, which and his brother ding strong it. Det. Valdez Valdez called 4th Precinct the \$87(2)(6) d and a shoulder, len and
pavement. After officers handcuffed \$87(2)(b) multiple officers. During this frisk, \$87(2)(b)	multiple officers. \$87(2)(b) ly brought to the ground (All the back and slammed his he he was stood up and s shorts fell to the grou ficers from pulling his pants to the rear of a civil	ad against the frisked by and, and an back up ian car, where
was handcuffed at the location and, while complained to PO Garcia that he was having difficulty at the stationhouse, \$\frac{87(2)(b)}{2}\$ requested an inhaler of breathing, but was not given any medical attention (A) also requested medical attention for the stationhouse.	breathing due to his asthma or medical attention of some s llegation E). (Board Review	. Upon arrival sort to aide his 03)
\$87(2)(b) and \$100 the 44th Precinct stationhouse.	were all handcuff was charged with \$87(2)(b)	ed and taken to

Page 2



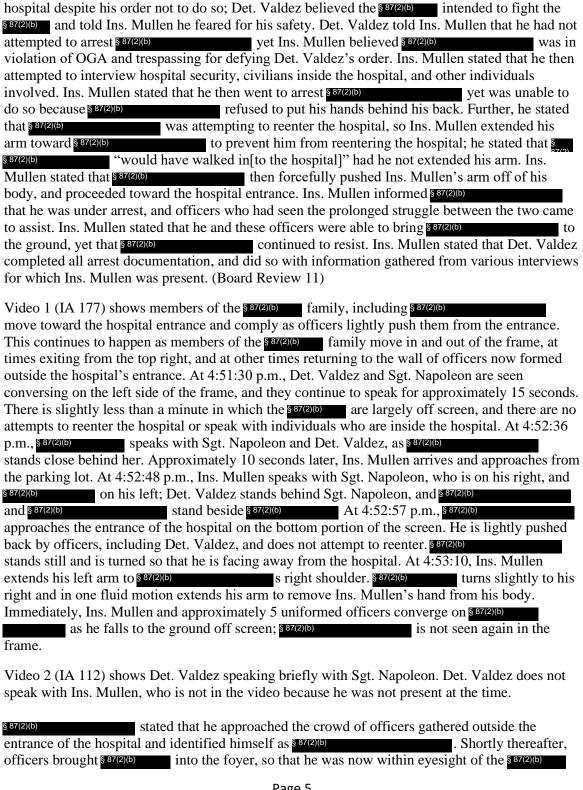
left portion of the screen. § 87(2)(b) is taken to the ground and then pressed up against the rear of a vehicle. The video does not capture §87(2)(b) s strip search allegation, and, as it is without audio, does not capture any alleged discourtesies. 2016-10-27 11-12-14.mp4 2. **Video 2** (IA 111, Board Review 10) is located in the foyer of the ER, and looks in toward the hospital, with the hospital exit behind the frame. The video shows Det. Valdez, Sgt. Napoleon, and PO Garcia at the location; Ins. Mullen is not present for this footage. 2016-10-27 11-16-18.mp4 **Findings and Recommendations Officer Identification** Officers were identified based on civilian testimony, officer testimony and surveillance footage. Officers involved in the physical apprehension of \$87(2)(b) could not be identified; no 44th Precinct officers were able to identify additional police officers at the location, and the surveillance footage does not provide a high-quality image of the officers' faces. Ins. Mullen, Det. Valdez, PO Garcia, Sgt. Napoleon and PO Jenkins were all present at the location, yet denied involvement in apprehending § 87(2)(b) Allegations not pleaded § 87(2)(g) Allegation A—Abuse: Brian Mullen instructed Det. Valdez to arrest [507(2)(b)] Ins. Mullen stated that, upon arrival at §87(2)(b) , he saw a disorderly situation in

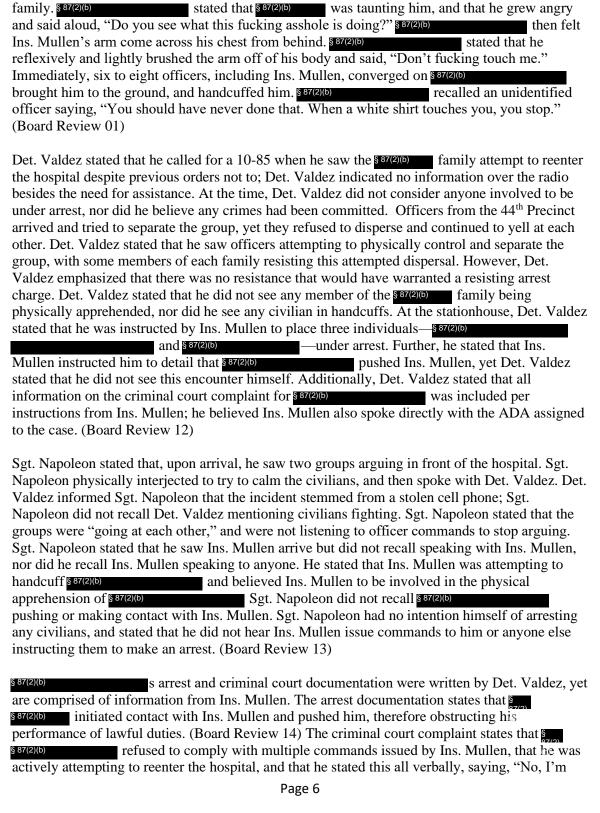
Page 4

which officers were attempting to restrain civilians. Ins. Mullen stated that Det. Valdez informed him that he instructed the §87(2)(b) to exit the hospital, but that they attempted to reenter the

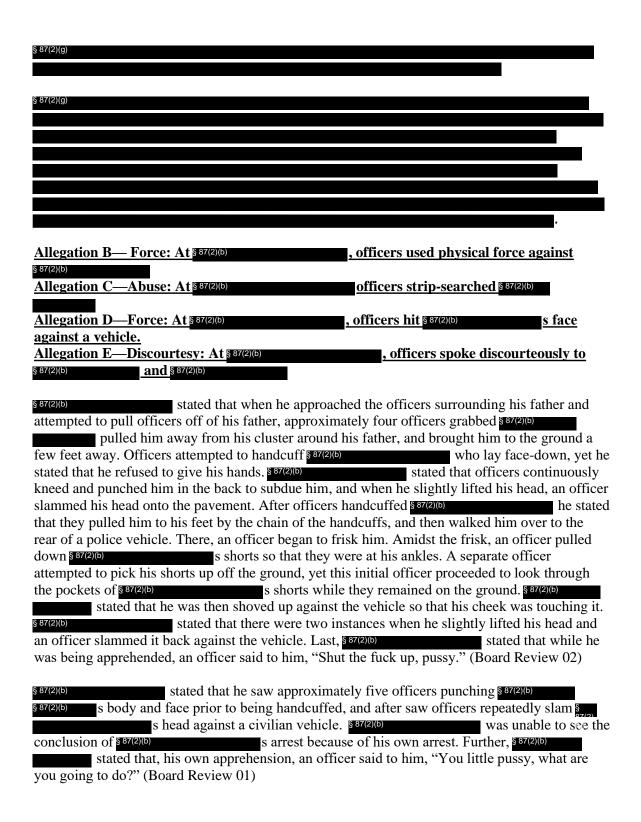
CCRB Case # 201604641

§ 87(2)(g)





going in." The criminal court complaint also states that \$87(2)(b) pushed Ins. Mullen out of his way and then continued to walk towards the entrance of \$87(2)(b) . (Board Review 15)
Per Patrol Guide Procedure 208.01, an officer may arrest a civilian when there is probable cause that they committed a crime. (Board Review 16)
Per NYS Penal Law 195.07, a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law by means of intimidation, physical force or interference. (Board Review 18)
Per NYS Penal Law 205.30, a person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a police officer from effecting an authorized arrest of himself or another person. (Board Review 17)
§ 87(2)(g)
§ 87(2)(g)
3 3 (-7,3)
§ 87(2)(g)



In a phone statement, \$87(2)(b) \$87(2)(b) s sister, stated that she
saw § 87(2)(b) being frisked, during which an officer pulled his pants to the ground.
She stated that she and other civilians present continuously called out to officers to pick up
\$ 87(2)(b) s pants. \$ 87(2)(b) \$ 887(2)(c) s pants were
never picked up, and that he left the location with his pants down. (Board Review 19)
PO Garcia stated that \$87(2)(b) was not physically involved in his father's arrest,
and that the decision to arrest (1872) was because of his shouting. PO Garcia
stated that \$87(2)(b) was handcuffed near the rear of a vehicle, and then
immediately placed in a vehicle and taken to the stationhouse; PO Garcia did not recall who handcuffed \$87(2)(5) and did not witness any force being used against him,
including force involving the vehicle. (Board Review 20)
including force involving the vehicle. (Board Review 20)
PO Garcia was the lone officer who recalled officers apprehending §87(2)(b) in any
capacity. No officer interviewed recalled engaging with \$87(2)(b) or saw him
being apprehended, and none could identify the officers struggling with §87(2)(b)
in Video 1. Neither \$87(2)(b) nor any officers present for the arrest recalled ever seeing
s pants on the ground or ever seeing him being frisked, nor did they recall
hearing complaints from \$87(2)(b) or other civilians regarding a strip-search. Last,
no officers interviewed recalled hearing any other officers directing profanities of any sort to any civilians during the incident, and each stated that they, themselves, never made such statements.
civilians during the incident, and each stated that they, themselves, never made such statements.
§ 87(2)(g)
•
Allegation F—Abuse: At the 44 th Precinct stationhouse, PO Brian Garcia did not obtain medical treatment for \$87(2)(b)
stated that he explained to PO Garcia en route to the stationhouse that he is
asthmatic, and upon arrival to the stationhouse, stated that he requested an asthma inhaler or
medical attention of some sort to relieve his asthma. \$87(2)(b) stated that while PO Garcia
informed him that the stationhouse had no asthma medication, he sought no alternatives for
887(2)(b) (Board Review 03)
PO Garcia stated that he transported [8/87(2)(b)] to the 44 th Precinct stationhouse, yet had no
recollection of \$87(2)(b) complaining about asthma or difficulty breathing at or en route to the
stationhouse. (Board Review 20) No other officers could speak to this allegation.
§ 87(2)(g)

Squad: 13			
Investigator:	Signature	Print	Date
Squad Leader:	Title/Signature	Print	Date
Reviewer:	Title/Signature	Print	Date